

June 12, 2018

Approved Minutes

Members in Attendance:

Christian Klein, Vice Chairman

Roger DuPont, Esq.

Joseph Moen, Esq.

Shawn O'Rourke, Esq.

Kevin Mills

Docket #3569

Docket # 3570

Hutchinson Homes, LLC was granted building permits to construct two single family dwellings located at 21 and 25 Hutchinson Road .

Neighbors of the proposed development appealed the issuance of the building permits and were represented by their attorney Elizabeth Pyle. (hereinafter "The Petitioner".)

The Petitioner's objection to the building permits was based on the question of whether or not a "Special Permit" under Section 6.08 of The Zoning Bylaw would be required.

After the neighbors introduced themselves for the record, The Petitioner asked The Zoning Board of Appeals (hereinafter "The Board") to revisit the language and meaning of Section 6.08 - Large Additions in Residential Districts. The Petitioner presented case law supporting her contention that Section 6.08 was applicable for the construction at 21 and 25 Hutchinson Road. The Petitioner argued that if an addition increased the size of an existing structure by more than 750 square feet of gross floor area a Special Permit was required yet a tear down which could increase the area to 3000 square feet of gross floor area or more would not need a Special Permit. The Petitioner asked The Board to reconsider the merits, meaning and interpretation of Section 6.08.

Vice Chairman Klein asked if there were others present that would like to speak. Robert Annese, Attorney for Hutchinson Homes, LLC introduced himself for the record. Attorney Annese asked The Board to look at the language of Section 6.08 and how it refers to alterations and additions.

Mr. Annese pointed out that in the definition of alteration the bylaw talks about an existing structure. Mr. Annese looked to the opinion of The Planning Department which reinforced his belief that 6.08 only applies to existing structures and not tear downs. In addition, it was noted that the proposed construction meets or exceeds all dimensional and density requirements of Section 6.00 of The Zoning Bylaw. Mr. Annese further stated that his clients were within their right and followed due process in obtaining the building permits.

Again Vice Chairman Klein asked if there was anyone else that would like to speak. Steve Revilak introduced himself as a Town Meeting Member. Mr. Revilak reminded The Board the same issue came up as an citizens agenda item in 2016. The ARB voted "no Action" on this item. The ARB said that a teardown is subjected to The Zoning Bylaw but not Section 6.08. The Petitioner challenged that statement and reported that issue was more about second level additions which would greatly increase gross floor area and not so much teardowns.

Mr. Loring Cook, a resident at 20 Hutchinson Road asked The Board to "step out of their comfort zone" and revisit the language of 6.08 and its applicability to this case.

Many additional points were made for each side prior to a motion by board member O'Rourke to conclude the hearing.

The Board voted unanimously to deny The Petitioner's Appeal requesting that the two Building Permits be revoked for failure to apply for a Special Permit to The Board in accordance with the provisions of Section 6.08.